IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

MFA.No. 1049 of 1999()

OPMV.139/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
DATED 31/03/1999
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APPELLANT: PETITIONER:

R.C.JOSE,
S/O.CHACKO, ELACKKATTU HOUSE,
NEENDOOR.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS:
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1. **GEORGE JOSEPH, PADAVIL HOUSE,**
   AYYAPPANCOIL, IDUKKI.

2. **REJI, S/O.MATHEW, PAMPLANIYIL,**
   KALLAMBHAGAM, TEEKOY, KOTTAYAM.

3. **THE NATIONAL INSURANCE COMPANY,**
   BRANCH MANAGER, THODUPUZHA.

4. **THE KERALA STATE TRANSPORT CORPORATION,**
   TRIVANDRUM REPRESENTED BY ITS MANAGING DIRECTOR,
   THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJI THOMAS PORKKATTIL
SRI.LAL GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1049 OF 1999

Dated 28th May, 2007

JUDGMENT

Koshy,J.

Appellant while travelling in a Jeep met with an accident when a K.S.R.T.C bus hit the jeep and he sustained fracture of the right clavicle. He claimed Rs.30,000/= as compensation. The Tribunal found that the accident occurred due to the negligence of the driver of the K.S.R.T.C bus, the fourth respondent. Only Rs.6,000/= was awarded as total compensation. It is the contention of the appellant that because of the clavicle fracture he has disability and there was loss of earning power, but, no compensation was awarded for that. It is further contended that he was a Supervisor and adequate compensation was not granted in any other heads. It was mainly contended that he was in plaster for eight weeks and because of the clavicle fracture he suffered severe pain and he was unable to move. The Tribunal has awarded only Rs.3,000/= for pain and suffering. He did not produce any disability certificate. Considering the nature of disability, we are unable to hold that he has any permanent disability due to clavicle fracture. However, since there was fracture of clavicle and he was in plaster for eight weeks, we award Rs.8,000/= for pain and suffering and after effect of injuries

including loss of amenities. The Tribunal has awarded only Rs.3,000/=. Hence, the appellant is entitled to an additional of Rs.5,000/=. The K.S.R.T.C is directed to deposit the same, over and above the decreed amount, with 9% interest from the date of application till its deposit, within three months from the date of receipt of a copy of this judgment.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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